

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant(s) : Magda MOURAD

Group Art Unit: 2136

Appln. No. : 10/731,020

Examiner: Fatoumata Traore

Filed : December 10, 2003

Confirmation No.: 5192

For : SYSTEM AND METHOD FOR AUTHORIZING LEARNING MATERIAL  
USING DIGITAL OWNERSHIP RIGHTS

**APPEAL BRIEF UNDER 37 C.F.R. §41.37**

Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window, Mail Stop Appeal Brief-Patents  
Randolph Building  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This appeal is from the Examiner's rejections of claims 1 – 21 and 23 – 39 as set forth in the Final Office Action dated October 19, 2007. A Notice of Appeal and a Request for Pre-Appeal Brief Review with the associated fee under 37 C.F.R. §41.20(b)(1) were submitted on January 22, 2008. Payment of the requisite fee under 37 C.F.R. §41.20(b)(2) is submitted herewith.

The present Appeal Brief is being timely filed within one month of the mailing date of the Notice of Panel Decision for Pre-Appeal Brief Review dated March 7, 2008. No additional fee is believed to be required for filing the instant Appeal Brief. However, if extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 09-0457.

**(I) REAL PARTY IN INTEREST**

The real party in interest is International Business Machines Corporation, assignee of the entire interest in the above-identified application by an assignment recorded in the U.S. Patent and Trademark Office on December 10, 2003 at Reel 014789 and Frame 0863.

**(II) RELATED APPEALS AND INTERFERENCES**

The Appellant, their legal representatives and the Assignee are not currently aware of any appeals, interferences, or judicial proceedings that may directly affect or be directly affected by or have some bearing on the Board's decision in this appeal. Attached hereto is a Related Proceedings Appendix showing no related appeals or interferences.

**(III) STATUS OF THE CLAIMS**

In the Final Office Action dated October 19, 2007 ("Final Office Action"), claims 1 – 21 and 23 – 39 are pending and rejected. Appellant submits that claims 1 – 21 and 23 – 39, as presented in the Request for Reconsideration under 37 C.F.R. § 1.116 filed October 1, 2007, are pending and are being appealed. Claims 1 – 21 and 23 – 39 are listed in the "Claims Appendix" attached herewith.

**(IV) STATUS OF THE AMENDMENTS**

An Amendment under 37 C.F.R. §1.111 ("Amendment") was filed April 23, 2007, in which claims 1, 4, 17 and 39 were amended and claim 22 was canceled. The Amendment was entered at the time. No amendments have been filed subsequent to the final rejection. As indicated, claims 1 – 21 and 23 – 39 are currently pending and are the subject of this appeal.

**(V) SUMMARY OF THE CLAIMED SUBJECT MATTER****Independent Claim 1**

By way of non-limiting example, the invention provides a method of providing learning objects (see, e.g., page 5, lines 14 – 18). The method comprises accessing an authoring application for creating a shareable content object (SCO), the accessing being through at least one of a web based remote access and a download of the authoring application (see, e.g., page 9, line 21 – page 10, line 1). The method further comprises composing a shareable content object (SCO) representing one or more assets using the authoring application (see, e.g., page 10, lines 2 – 5). The method further comprises assigning a digital rights to the SCO to secure the one or more assets (see, e.g., page 14, lines 10 – 14). The method further comprises individually controlling access to the SCO and the one or more assets by utilizing the assigned digital rights to the SCO or the one or more assets (see, e.g., page 17, line 21– page 18, line 12). Additionally, the download of the authoring application includes checking a client browser's version and downloading a DRM extension appropriate for the browser's version (see, e.g., page 9, lines 5 - 10).

**Independent Claim 17**

By way of non-limiting example, the invention provides a method for creating learning objects (see, e.g., page 5, lines 14 – 18). The method further comprises creating a package containing one or more shareable content objects (SCOs) (see, e.g., page 10, lines 2 – 5). The method further comprises assigning digital rights management (DRM) to the one or more SCOs (see, e.g., page 14, lines 10 – 14). The method further comprises updating an on-line electronic store (e-Store) with the one or more SCOs (see, e.g., page 17, lines 3 – 20). The method further

comprises making the one or more SCOs available for searching and downloading at a client. (see, e.g., page 6, lines 16 – 18). Additionally, access to the one or more SCOs is controlled by the DRM, and the one or more SCOs include one or more assets individually controllable (see, e.g., page 18, lines 4 – 8). The method further comprises logging onto a portal server to perform any of the steps, wherein the portal server provides a common interface personalized to a user's profile and role (see, e.g., page 8, line 22 – page 9, line 3).

### **Independent Claim 27**

By way of non-limiting example, the invention provides a system for providing learning objects (see, e.g., page 5, lines 14 – 18). The system further comprises a portal server to permit authoring of at least one shareable content object (SCO) having one or more assets (see, e.g., page 9, line 21 – page 10, line 1). The system further comprises a digital rights management (DRM) content packager accessible via the portal server which assigns digital rights to the at least one shareable content object (SCO) (see, e.g., page 6, lines 3 – 20). The system further comprises a DRM license server which assigns license criteria to the at least one SCO and the one or more assets (see, e.g., page 6, line 22 – page 7, line 2). The system further comprises a content manager which stores or retrieves the at least one SCO and the one or more assets (see, e.g., page 7, lines 14 – 20 and page 14, lines 4 – 14).

### **Independent Claim 32**

By way of non-limiting example, the invention provides a digital rights protection system (see, e.g., page 5, lines 14 – 18). The system further comprises a secure uploading service capable of receiving unprotected digital content having one or more parts, associated metadata,

and one or more promotional materials (see, e.g., page 14, lines 4 – 14). The system further comprises an automatic validation component adapted to ensure conformance of the unprotected digital content to Shareable Content Object Reference Model (SCORM) standards and providing error messages to enable correction (see, e.g., page 11, lines 8 – 14 and page 12, lines 9 – 12). The system further comprise a digital rights generation layer having one or more components adapted to provide a web-based interface for specifying different rights to the one or more parts for providing protected digital content (see, e.g., page 18, lines 4 – 8).

### **Independent Claim 39**

By way of non-limiting example, the invention provides a computer program product comprising a computer usable medium having readable program code embodied in the medium, (see, e.g., page 8, lines 5 – 11). The computer program product includes a first computer code to compose a shareable content object (SCO) representing one or more assets (see, e.g., page 9, line 21 – page 10, line 1). The computer program product further includes a second computer code to assign a digital rights to the SCO to secure the one or more assets (see, e.g., page 14, lines 10 – 14). The computer program product further includes a third computer code to individually access the SCO and the one or more assets, wherein the access to the SCO and the one or more assets is individually controlled by the assigned digital rights (see, e.g., page 17, line 21 – page 18, line 12). The computer program product further includes a fourth computer code to provide a common interface personalized to a user's profile and role to facilitate one of accessing or downloading the first computer code (see, e.g., page 8, line 22 – page 9, line 3).

**(VI) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

(A) Claims 1 – 3, 5, 9, 10, 15, 16 and 32 – 34 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2005/0086501 issued to Woo et al. (“Woo”).

(B) Claims 17 – 20, 23, 25 – 27, 31 and 39 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2004/0024652 issued to Buhse et al. (“Buhse”).

(C) Claims 4, 37 and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Woo.

(D) Claims 6 – 8, 11 – 14, 35 and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Woo in view of Buhse.

(E) Claims 21, 24 and 28 – 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Buhse in view of Woo.

**(VII) ARGUMENTS**

**(A) Claims 1 – 3, 5, 9, 10, 15, 16 and 32 – 34 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2005/0086501 issued to Woo et al. (“Woo”).**

*Claims 1 – 3, 5, 9, 10, 15 and 16*

The rejection of claims 1 – 3, 5, 9, 10, 15 and 16 under 35 U.S.C. §102(e) is in error, the decision of the Examiner to reject these claims should be reversed, and the application should be remanded to the Examiner.

To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. MPEP §2131. Appellant submits that the applied reference does not disclose every feature of the claimed invention.

Independent Claim 1

Appellant submits that Woo does not disclose each of the claimed features of independent claim 1. For example, Appellant submits that Woo at least does not disclose that the downloading of the authoring application includes checking the client browser's version and downloading the DRM extension appropriate for the browser's version. In the Response to Arguments section of the final Office Action dated October 19, 2007, the Examiner asserts that this feature is disclosed at paragraph [0162]. Appellant disagrees.

Woo discloses a method and system for the information protection of digital content. More specifically, Woo discloses at paragraphs [0146] and [0147]:

The present invention will be described in more detail as following. FIG. 1 is a block diagram of representative digital rights management system. To begin with, the original content 111 for streaming and/or download service, such as motion pictures, movies, music, online education content and so on, is packaged to encrypted content package 121 using content packager 112 of encryption means 110. The encryption key is generated at DRM server 130 and it is transferred to content package 112. The encrypted content package 121 is uploaded to content server, which may be a streaming server 122a for streaming service or web/FTP server 122b for download service.

If client system's user 401 selects and clicks the icon/name of content on the homepage or content server 122, for example web server 122b, the content may be serviced to user through streaming or download service. After the user 401 selects the content item for the streaming service and therefore the DRM controller 141 is activated, encrypted content package 142 is delivered from streaming server 122a, connected with web server 122b, to client system 140. . . .

Further, Woo discloses at paragraphs [0161] and [0162]:

From now on, the content playing process will be explained.

FIG. 3 is a sequence chart of playing process of encrypted multimedia content using streaming service. To begin with, it is necessary to install the DRM controller 141 in client system 140 for content playing. If the DRM controller 141 is not installed yet in client system 140, it may be [sic] to install the DRM controller when a client system's user 401 use the content service of DRM applied, or after member subscription. DRM controller 141 may be downloaded and installed automatically using ActiveX control method. After installing process of the DRM controller 141, the DRM controller may be checked with version number and only upgraded when a new version is released.

While Appellant acknowledges that the DRM controller may be checked and upgraded when a new version is released, Appellant submits that the DRM controller is not the authoring application. Rather, the DRM controller is a component used for the content playing process by the end user of the digital content. As such, with Woo the checking and upgrading does not occur with the download of the authoring application.

As explained in paragraph [0162] of Woo, FIG. 3 is a sequence chart of the playing process of media content by an end user. Accordingly, the end user (or client) of the digital content may install a DRM controller in the client system. After the installing process of the DRM controller 141 is performed by the end user or client, the DRM controller may be checked with version number and only upgraded when a new version is released.

However, Appellant submits that this process of FIG. 3, which includes upgrading the DRM controller when a new version is released is not performed during a download of an authoring application. That is, according to Woo, in order for a content user to perform the steps shown in FIG. 3 (e.g., a download of media content), the media content must already be created. For the media content to have already been created, requires that any authoring application (which facilitates the creation of media content) already be downloaded by a media content



author. As such, Appellant submits that Woo does not disclose “wherein the download of the authoring application includes checking the client browser's version and downloading the DRM extension appropriate for the browser's version,” as recited in claim 1.

Therefore, Appellant submits that Woo does not disclose each and every feature of claim 1, and does not anticipate the claimed invention.

Dependent Claims 2, 3, 5, 9, 10, 15 and 16

Appellant submits that claims 2, 3, 5, 9, 10, 15 and 16 are dependent claims, depending from a distinguishable base claim. Thus, these claims should be in condition for allowance based upon their dependencies.

Accordingly, for at least these reasons, Appellant respectfully requests that the rejections over claims 1 – 3, 5, 9, 10, 15 and 16 be reversed, and the application be remanded to the Examiner.

Claims 32 – 34

The rejection of claims 32 – 34 under 35 U.S.C. §102(e) is in error, the decision of the Examiner to reject these claims should be reversed, and the application should be remanded to the Examiner.

To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. MPEP §2131. Appellant submits that the applied reference does not disclose every feature of the claimed invention.

Independent Claim 32

Appellant submits that Woo does not disclose each of the features of independent claim 32. For example, Appellant submits that Woo at least does not disclose an automatic validation component adapted to ensure conformance of the unprotected digital content to Shareable Content Object Reference Model (SCORM) standards and providing error messages to enable correction. In addressing claim 32 in the Response to Arguments section of the final Office Action dated July 30, 2007, the Examiner asserts that this feature is disclosed at paragraphs [0083] – [0090]. Additionally, in the Response to Arguments section of the final Office Action dated October 19, 2007, the Examiner asserts that this feature is disclosed at paragraphs [0028], [0046], [0050] and [0062] Appellant disagrees.

Woo discloses at paragraphs [0081] – [0090]:

In a preferred embodiment, the connection preparing step comprises:

- the step of starting and temporarily stopping the application program (144);

- the step of the DRM controller (141) determining whether the handler is zero by hooking a message between the application program (144) and the network driver or file system using filtering means;

- the step of deleting an address handle to cancel the connection and sending a message to the network driver or file system if the handler is zero, and determining whether a process is registered in the filtering means if the handler is not zero;

- the step of sending a message to the network driver or file system if the process is not registered in the filtering means, and registering an address handle, setting a my event handler, storing a local port and sending a changed message to the network driver or file system if the process is registered in the filtering means; and

- the step of the application program (144) receiving a ready message from the network driver or file system through the sending of the message.

In a preferred embodiment, the connecting step comprises:

- the step of the filtering means hooking a message between the application program (144) and the network driver or file system and determining whether the process is registered in the filtering means;

- the step of sending the message the network driver or file system if

the process is not registered in the filtering means, and determining whether a remote port has a predetermined number if the process is registered in the filtering means; and

the step of sending the message to the network driver or file system if the remote port does not have the predetermined number, and sending the message to the network driver or file system after storing a remote port number in an address handle structure having a local port connected to the remote port if the remote port has the predetermined number.

Appellant submits that Shareable Content Object Reference Model (SCORM) is a generally known collection of standards and specifications for web-based e-learning. Furthermore, Appellant submits that the above-cited passage is completely silent as to ensuring conformance of the unprotected digital content to SCORM standards. Moreover, Appellant submits that Woo in its entirety is completely silent with respect to SCORM standards.

Additionally, Appellant submits that the above-cited passage of Woo describes aspects of the client system (i.e., the viewer of the digital content). As such, Appellant submits that the above-cited passage of Woo cannot disclose ensuring conformance of the unprotected digital content to SCORM standards, because the digital content used by the client system (e.g., downloaded or streamed) is no longer unprotected digital content (i.e., it is protected digital content). Moreover, Appellant submits that Woo is silent as to providing error messages to enable correction, as recited in claim 32.

Furthermore, Appellant submits that paragraph [0050] of Woo describes aspects of the client system (i.e., the viewer of the digital content). As such, Appellant submits that paragraph [0050] of Woo cannot disclose ensuring conformance of the unprotected digital content to SCORM standards, because the digital content used by the client system (e.g., downloaded or streamed) is no longer unprotected digital content (i.e., is protected digital content). Moreover, Appellant submits that paragraph [0050] of Woo is completely silent as to ensuring conformance

of the unprotected digital content to Shareable Content Object Reference Model (SCORM) standards.

Additionally, addressing paragraphs [0028], [0046] and [0062] of Woo, Appellant submits that none of these portions of Woo disclose an automatic validation component adapted to ensure conformance of the unprotected digital content to Shareable Content Object Reference Model (SCORM) standards. Instead, the recited passages refer to a general description of the overall multimedia protecting system (paragraph [0028]) and method (paragraph [0062]), and a control means of the digital rights management (DRM) system utilized by the user of the content (e.g., the content downloader) (paragraph [0046]). Additionally, Appellant submits that none of these cited portions of Woo disclose providing error messages to enable correction, as recited in claim 32.

For at least these reasons, Appellant submits that Woo does not disclose each and every feature of claim 32, and does not anticipate the claimed invention.

#### Dependent Claims 33 and 34

Appellant submits that claims 33 and 34 are dependent claims, depending from a distinguishable base claim. Thus, these claims should be in condition for allowance based upon their dependencies.

Accordingly, for at least these reasons, Appellant respectfully requests that the rejections over claims 32 – 34 be reversed, and the application be remanded to the Examiner.

**(B) Claims 17 – 20, 23, 25 – 27, 31 and 39 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication No. 2004/0024652 issued to Buhse et al. (“Buhse”).**

Claims 17 – 20, 23, 25 and 26

The rejection of claims 17 – 20, 23, 25 and 26 under 35 U.S.C. §102(e) is in error, the decision of the Examiner to reject these claims should be reversed, and the application should be remanded to the Examiner.

To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. MPEP §2131. Appellant submits that the applied reference does not disclose every feature of the claimed invention.

Independent Claim 17

Appellant submits that Buhse does not disclose each of the recited features of independent claim 17. For example, Appellant submits that Buhse at least does not disclose logging onto a portal server to perform any of the steps, wherein the portal server provides a common interface personalized to a user's profile and role. In rejecting claim 17, the Examiner asserts that this feature is disclosed at paragraphs [0034] and [0084]. Appellant disagrees.

Buhse discloses a system and method for the distribution of digital products. More specifically, Buhse discloses at paragraph [0034]:

The Order Management System (OMS) 105, is essentially an event driven command processor that manages the entire application. External communications 108 to the application are routed through OMS 105 to the appropriate functional module. OMS 105 reacts to requests from both external and internal interfaces.

Additionally, Buhse discloses at paragraph [0084]:

Subscription management operations are processed through AMC. These operations allow a client (affiliate) to create custom subscription plans based on their own business rules.

Appellant acknowledges that Buhse discloses an Order Management System (OMS), which manages the entire application, such that external communications are routed through the OMS to the appropriate functional module. However, Appellant submits that Buhse does not disclose that the OMS “provides a common interface personalized to a user's profile and role,” as recited in claim 17.

Moreover, as set forth above, paragraph [0084] of Buhse discloses that an AMC, which is part of the Automated Packaging Component (APC), processes operations for creating custom subscription plans based on business rules. However, Appellant submits that creating custom subscription plans does not constitute a common interface personalized to a user's profile and role, as recited in claim 17. That is, custom subscription plans are not an interface for a portal server that allows a user to perform any of the steps of claim 17.

Additionally, in the Response to Arguments of the final Office Action dated October 19, 2007, the Examiner alternatively asserts that Buhse discloses the above-noted feature of claim 17 in paragraphs [0032] and [0231]. Initially, Appellant notes that the analysis set forth in the Response to Arguments section does not correspond with the actual rejection of claim 17. Thus, Appellant submits that the Examiner has not set forth a clear record. In any event, Appellant submits that paragraphs [0032] and [0231] describe the account management system (AMS), which is used to create the custom subscription plans. As discussed above, Appellants submit that the custom subscription plans do not constitute a common interface personalized to a user's profile and role, as recited in claim 17.

Moreover, Appellant submits that Buhse does not disclose logging onto a portal server to perform any of the steps, wherein the portal server provides a common interface personalized to a user's profile and role, as recited in claim 17. That is, Appellant submits that the custom subscription plans of Buhse are not an interface for a portal server that allows a user to perform any of the steps of claim 17.

Therefore, for at least these reasons, Appellant submits that Buhse does not disclose each and every feature of claim 17, and does not anticipate the claimed invention.

Dependent Claims 18 – 20, 23, 25 and 26

Appellant submits that claims 18 – 20, 23, 25 and 26 are dependent claims, depending from respective distinguishable base claims. Thus, these claims should be in condition for allowance based upon their dependencies.

Accordingly, for at least these reasons, Appellant respectfully requests that the rejections over claims 17 – 20, 23, 25 and 26 be reversed, and the application be remanded to the Examiner.

Claims 27 and 31

The rejection of claims 27 and 31 under 35 U.S.C. §102(e) is in error, the decision of the Examiner to reject these claims should be reversed, and the application should be remanded to the Examiner.

To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. MPEP §2131. Appellant submits that the applied reference does not disclose every feature of the claimed invention.

Independent Claim 27

Appellant submits that Buhse does not disclose each of the features of independent claim

27. For example, Appellant submits that Buhse does not disclose a portal server to permit authoring of at least one shareable content object (SCO) having one or more assets. The Examiner asserts that this feature is disclosed at paragraphs [0028], [0029] and [0229].

Appellant does not agree.

Buhse discloses at paragraphs [0028] and [0029]:

Referring to the drawings, FIG. 1A is a schematic diagram of an exemplary system 100 for the distribution of digital products. The basic functional modules of a preferred system 100 comprise a Client Interface 101, an Offer Catalog Component 102, an Account Management System 103, a Rights Locker Component 104 and an Order Management System 105. Additional useful components include an Automated Packaging Component 106 and a Data Reporting Component 107. Each component comprises a modular software component, and the system 100 comprises one or more digital processors including the modular components interconnected by a common messaging language.

In essential operation of the system 100, the Client Interface Component 101, accessible by clients, allows each client to set up and manage its offer of digital products for sale or subscription. The Offer Catalog Component 102, accessible by customers, provides customers with a listing of the digital products available from each client. The Account Management System 103 processes consumer purchase orders for each client and communicates the orders to the client (or to prescribed software). Purchase orders can include downloads, subscriptions, and promotions. In response to the client or prescribed directions, the Rights Locker Component 104 issues purchased products to the customer. The Order Management System 105 coordinates the cataloging of products, the management of accounts and the delivery of products to consumers.

Additionally, Buhse discloses at paragraph [0229]:

The modular components of the system include. 1) a client interface (CLI) accessible to the client to allow the client to set up and manage an offer of one or more digital products for sale or subscription; 2)



an offer catalog component (OCC) accessible to consumers to provide a listing of the digital products available from the client; 3) an account management system (AMS) to process consumer purchase orders; 4) a rights locker component (RLC) for issuing purchased products and associated rights to consumers, and 5) an order management system (OMS) to coordinate the cataloging of products, the management of accounts and the delivery of products.

Appellant acknowledges that Buhse discloses at paragraph [0029] a Client Interface (CLI) which “allows each client to set up and manage its offer of digital products for sale or subscription.” Additionally, Buhse discloses at paragraph [0078] that the “CLI 101 provides four functions to the client: content packaging, offer maintenance, subscription plan maintenance, and clearinghouse reporting.”

However, Appellant submits that none of the cited portions of Buhse disclose that the Client Interface may be used to permit authoring of at least one shareable content object (SCO) having one or more assets. That is, with Buhse, the Client Interface is not used to author, or create, the content. Rather, with Buhse, the Client Interface is used to package the content, wherein the content has already been created outside of the Client Interface.

In contrast, with the present invention, the portal server permits authoring of at least one SCO having one or more assets. That is, with the present invention, the content may be authored, or created, within the portal server. For example, as described in the specification at paragraph [0032] “. . . a SCO is composed by an author and placed in a folder. This may be accomplished by using the downloaded authoring application tool which may be a SCORM compliant authoring tool to compose a SCO on the client system (e.g., a personal computer).”

Therefore, Appellant submits that Buhse does not disclose each and every feature of claim 27, and does not anticipate the claimed invention.

Dependent Claim 31

Appellant submits that claim 31 is a dependent claim, depending from a distinguishable base claim. Thus, this claim should be in condition for allowance based upon its dependency.

Accordingly, for at least these reasons, Appellant respectfully requests that the rejections over claims 27 and 31 be reversed, and the application be remanded to the Examiner.

Claim 39

The rejection of claim 39 under 35 U.S.C. §102(e) is in error, the decision of the Examiner to reject this claim should be reversed, and the application should be remanded to the Examiner.

To anticipate a claim, each and every element as set forth in the claim must be found, either expressly or inherently described, in a single prior art reference. MPEP §2131. Appellant submits that the applied reference does not disclose every feature of the claimed invention.

For example, Appellant submits that Buhse at least does not disclose a fourth computer code to provide a common interface personalized to a user's profile and role to facilitate one of accessing or downloading the first computer code. The Examiner asserts that Buhse discloses the above-noted feature at paragraph [0006]. Appellant disagrees

Buhse discloses a system and method for the distribution of digital products. Buhse discloses at paragraph [0006]:

In accordance with the invention, a system for distributing digital products from a client to consumers comprises one or more digital processors including a plurality of software components interconnected by a common messaging language. The basic components include a Client Interface Component accessible to clients to allow a client to set up and manage an offer of digital products for sale or subscription. An Offer Catalog Component accessible to consumers provides consumers with a listing of the products available from a client. An Account Management

System processes consumer purchase orders, and a Rights Locker Component issues purchased products and associated intellectual property rights (if needed) to consumers. An Order Management System coordinates cataloging, the management of accounts and the delivery of products.

Additionally, Buhse discloses at paragraph [0076], [0078] and [0079]:

... The CLI 101 is primarily an interface between clients and the system. The inputs are offers, content packaging rules, and subscription plans. The outputs are system reports. The CLI is an algorithm in software programmed on a digital computer that acts as a CLI web interface and gateway for the content provider into the system. The CLI is connected to AMC 304, OCC 102, and APC 106.

CLI 101 provides four functions to the client: content packaging, offer maintenance, subscription plan maintenance, and clearinghouse reporting. The CLI delegates packaging requests to the APC 106. The APC 106 notifies the CLI of successful packaging operations, and the CLI then updates the OCC 102 with the new offers. The CLI communicates with the OCC 102 through a real time interface for both packaging and offer updates.

In addition to receiving the content, CLI 101 can receive the following packaging information of the client: business rules including distribution rules and transaction time rules; metadata for inclusion in the package and Offer Catalog and retail channel information including retailers allowed/disallowed, and territorial restrictions. The CLI also communicates with AMG 501 for subscription plan maintenance. AMG 501, in turn, communicates with AMC 304 to edit plans. Alternatively as shown in FIG. 3, the CLI can communicate directly with AMC 304.

Further, Buhse discloses at paragraph [0084]:

Subscription management operations are processed through the AMC. These operations allow a client (affiliate) to create custom subscription plans based on their own business rules.

The Examiner asserts that the Client Interface Component (CLI) 101 constitutes the first computer code. As described above, Buhse discloses that the CLI provides four functions to the client: content packaging, offer maintenance, subscription plan maintenance, and clearinghouse reporting. The CLI also communicates with AMG 501 for subscription plan maintenance. AMG

501, in turn, communicates with AMC 304 to edit plans. Alternatively as shown in FIG. 3 of Buhse, the CLI can communicate directly with AMC 304. Moreover, as disclosed in Buhse, subscription management operations, which are processed through the AMC, allow a client (affiliate) to create custom subscription plans based on their own business rules.

It is not clear what the Examiner regards as the fourth computer code, as this feature was not specifically identified. Therefore, Appellant assumes the Examiner meant to apply the same reasoning that was applied to claim 17, noted above. Specifically, Appellant assumes that the Examiner meant to assert that the fourth computer code is disclosed by Buhse, in that the subscription management operations, which are processed through the AMC, allow a client (affiliate) to create custom subscription plans based on their own business rules.

However, Appellant submits that operations that allow a client to create custom subscription plans do not constitute a fourth computer code to provide a common interface personalized to a user's profile and role to facilitate one of accessing or downloading the first computer code (which is used to compose a shareable content object (SCO) representing one or more assets). That is, Appellant submits that creating custom subscription plans is not providing a common interface personalized to a user's profile. Moreover, Appellant submits that creating custom subscription plans using the AMC in conjunction with the CLI does not provide a common interface to facilitate one of accessing or downloading the first computer code. That is, the CLI was designated by the Examiner as the first computer code, and the CLI is used with the AMC to create custom subscription plans. Thus, Appellant submits that those custom subscription plans cannot provide a common interface to facilitate one of accessing or downloading the first computer code, as the first computer code was required to generate the custom subscription plans, and therefore was already accessed or downloaded.

Thus, Appellant submits that Buhse does not disclose each of the features of claim 39, and does not anticipate the claimed invention.

Accordingly, for at least these reasons, Appellant respectfully requests that the rejection over claim 39 be reversed, and the application be remanded to the Examiner.

**(C) Claims 4, 37 and 38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Woo.**

The rejection of claims 4, 37 and 38 under 35 U.S.C. §103(a) is in error, the decision of the Examiner to reject these claims should be reversed, and the application should be remanded to the Examiner.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach all the claim limitations. MPEP § 2142. Appellant submits that the applied reference does not teach or suggest each of the features of the claimed invention.

*Dependent Claims 4 and 37*

Appellant submits that claims 4 and 37 are dependent claims, depending from respective distinguishable base claims. Thus, these claims should be in condition for allowance based upon their dependencies.

Accordingly, Appellant respectfully requests that the rejections over claims 4 and 37 be reversed, and the application be remanded to the Examiner.

Dependent Claim 38

Appellant submits that claim 38 is a dependent claim, depending from a distinguishable base claim. Accordingly, this claim should be in condition for allowance based upon its dependency.

Additionally, Appellant submits that Woo does not teach or suggest each feature of claim 38. For example, Appellant submits that Woo does not disclose that the digital rights generation layer provides updating and version control capabilities of the protected digital content and any associated metadata files. The Examiner asserts that these features are disclosed by Woo at paragraph [0162]. Appellant disagrees.

As similarly discussed above, with regard to claim 1, while Appellant acknowledges that the DRM controller may be checked and upgraded when a new version is released, Appellant submits that the DRM controller does not provide update and version control capabilities of the protected digital content and any associated metadata files. Rather, Appellant submits that the DRM controller is a component used for the content playing process by the end user of the content. As such, Appellant submits that Woo does not disclose that the DRM controller provides update and version control capabilities of the protected digital content and any associated metadata files. Moreover, Appellant submits that the DRM controller is not a digital rights generation layer, as the DRM controller does not generate the digital rights. Rather, the DRM controller is a component of the client (content user) system used for the content playing process.

Thus, Appellant submits that Woo does not teach or suggest each of the features of claim 38 and does not render the claimed invention unpatentable.

Accordingly, for at least these reasons, Appellant respectfully requests that the rejection over claim 38 be reversed, and the application be remanded to the Examiner.

**(D) Claims 6 – 8, 11 – 14, 35 and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Woo in view of Buhse.**

The rejection of claims 6 – 8, 11 – 14, 35 and 36 under 35 U.S.C. §103(a) is in error, the decision of the Examiner to reject these claims should be reversed, and the application should be remanded to the Examiner.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach all the claim limitations. MPEP § 2142. Appellant submits that the applied references do not teach or suggest each of the features of the claimed invention.

*Dependent Claims 6 – 8, 11 – 14 and 36*

Appellant submits that claims 6 – 8, 11 – 14 and 36 are dependent claims, depending from respective distinguishable base claims. Thus, these claims should be in condition for allowance based upon their dependencies.

Accordingly, Appellant respectfully requests that the rejections over claims 6 – 8, 11 – 14 and 36 be reversed, and the application be remanded to the Examiner.

Dependent Claim 35

Appellant submits that neither Woo or Buhse, alone or in combination, teach or suggest the features of claim 35. For example, Appellant submits that neither Woo or Buhse, alone or in combination, teach or suggest a security manager component adapted to provide secure communications with client stations and an electronic store, or a content repository component which prevents any input/output operation that creates a rights violation when the protected content is stored.

The Examiner acknowledges that Woo does not disclose a security manager component or a content repository component. However, the Examiner asserts that Buhse discloses a security manager component and a content repository component, and that it would have been obvious to one of ordinary skill in the art to combine these references. Appellant disagrees.

The Examiner asserts that Buhse discloses the security manager component at paragraphs [0029], [0035], [0038] and [0230]. Specifically, the Examiner asserts that this feature is taught or suggested by the passage “the client interface component accessible by clients, allow each client to set up and manage its offer of digital products for sale or subscription.”

Paragraph [0029] states:

In essential operation of the system 100, the Client Interface Component 101, accessible by clients, allows each client to set up and manage its offer of digital products for sale or subscription. The Offer Catalog Component 102, accessible by customers, provides customers with a listing of the digital products available from each client. The Account Management System 103 processes consumer purchase orders for each client and communicates the orders to the client (or to prescribed software). Purchase orders can include downloads, subscriptions, and



promotions. In response to the client or prescribed directions, the Rights Locker Component 104 issues purchased products to the customer. The Order Management System 105 coordinates the cataloging of products, the management of accounts and the delivery of products to consumers.

Additionally, paragraph [0035] states:

The Automated Packaging Component (APC) 106, packages a digital product for shipment (transmission) by encrypting it with any known digital rights management technology. The product can be made available to a customer via a fire [sic] sharing system 109.

Further, paragraph [0038] states:

The advantages of the system architecture are manyfold. The system of FIG. 1 can integrate into a single system all of the processes of digital information distribution, from content preparation to subscription administration, end-user rights management and cross-platform download management. The system can provide a complete solution for account management (including subscription plans), packaging (encrypting content with business and content rules), catalog aggregation and content management, storefront and shopping cart (supports integration with affiliate sites), rights locker (online storage and maintenance of customer rights), and complete reporting.

Additionally, paragraph [0230] states:

The system may also include a modular software automatic packaging component (APC) for packaging digital products for transmission to consumers by providing the products with digital rights management encryption. The system would include one or more digital rights management systems (DRMs) for determining the rights of consumers and/or would permit connection with and use of one or more DRMs of clients. And the system advantageously includes a modular software data reporting component (DRC).

Appellant submits that the cited passages are silent with respect to providing secure communications with client stations and an electronic store. Therefore, Appellant submits that Buhse does not teach or suggest the security manager component.

Additionally, the Examiner asserts that the content repository component is disclosed at paragraphs [0031], [0035], [0038] and [0230] of Buhse. Specifically, the Examiner asserts that this feature is taught or suggested by the passage “offer catalog component can send product IDs to the system as well as confirming whether or not a product is part of a subscription plan.”

Paragraph [0031] states:

The Offer Catalog Component (OCC) 102 can be a real time listing of available digital products. OCC 102 sends product IDs to the system as well as confirming whether or not a product is a part of a subscription plan. Catalogs can be created for individual distributors.

Appellant submits that the cited passages are silent with respect to preventing any input/output operation that creates a rights violation when the protected content is stored. Therefore, for at least these reasons, Appellant submits that Buhse does not teach or suggest the content repository component.

Thus, Appellant submits that neither Woo nor Buhse, alone or in combination, teach or suggest each of the features of claim 35.

Furthermore, Appellant submits that claim 35 is a dependent claim, depending from a distinguishable base claim. Thus, this claim should be in condition for allowance based upon its dependency.

Accordingly, for at least these reasons, Appellant respectfully requests that the rejection over claim 35 be reversed, and the application be remanded to the Examiner.

**(E) Claims 21, 24 and 28 – 30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Buhse in view of Woo.**

The rejection of claims 21, 24 and 28 – 30 under 35 U.S.C. §103(a) is in error, the decision of the Examiner to reject these claims should be reversed, and the application should be remanded to the Examiner.

The Examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach all the claim limitations. MPEP § 2142. Appellant submits that the applied references do not teach or suggest each of the features of the claimed invention.

Appellant submits that claims 21, 24 and 28 – 30 are dependent claims, depending from respective distinguishable base claims. Thus, these claims should be in condition for allowance based upon their dependencies.

Accordingly, Appellant respectfully requests that the rejections over claims 21, 24 and 28 – 30 be reversed, and the application be remanded to the Examiner.

**Conclusion**

In view of the foregoing remarks, Appellant submits that claims 1 – 21 and 23 – 39 are patentably distinct from the prior art of record and are in condition for allowance. Accordingly, Appellant respectfully requests that the Board reverse the Examiner's rejection of claims 1 – 21 and 23 – 39, and remand the application to the Examiner for withdrawal of the above-noted rejections.

Respectfully submitted,  
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**(VIII) CLAIMS APPENDIX**

1. A method of providing learning objects, comprising:
  - accessing an authoring application for creating a shareable content object (SCO), the accessing being through at least one of a web based remote access and a download of the authoring application;
  - composing a shareable content object (SCO) representing one or more assets using the authoring application;
  - assigning a digital rights to the SCO to secure the one or more assets; and
  - individually controlling access to the SCO and the one or more assets by utilizing the assigned digital rights to the SCO or the one or more assets,wherein the download of the authoring application includes checking a client browser's version and downloading a DRM extension appropriate for the browser's version.
2. The method of claim 1, wherein the accessing an authoring application step includes:
  - accessing an on-line portal server to obtain registration information; and registering as an author of learning objects.
3. The method of claim 2, wherein the registering step includes receiving a registration confirmation that includes at least one of a user-id, a password, a login uniform resource locator (URL) and a universal resource identifier (URI).
4. The method of claim 1, wherein the download of the authoring application further includes:

accessing an application to create SCO rights metadata and promotional material; and  
generating a public key pair for the client for encryption purposes and sending a private  
key to the client, wherein the accessing the application to create SCO rights metadata occurs  
through one of a web based remote access and a download the application

5. The method of claim 1, wherein the assigning step includes:  
logging on to a digital packager;  
uploading a package containing the SCO and a metadata file; and  
triggering a digital rights management (DRM) packager to assign digital rights to at least  
one of the SCO and the one or more assets and the package.
6. A method of claim, 5, wherein the triggering step includes assigning a price level to one  
of the SCO and the one or more assets controlled by the assigned digital rights.
7. The method of claim 5, further comprising the steps of:  
parsing the package to extract structure and titles; and  
assigning a package ID with a package name to the SCO.
8. The method of claim 1, further comprising:  
generating promotional material and thumbnail for use in an electronic store (eStore) to  
provide searching and discovery capability; and  
storing the promotional material and the SCO in an on-line catalog.

9. The method of claim 1, further comprising assigning digital rights to the one or more assets and encrypting at least one of the SCO and one or more assets.
10. The method of claim 1, wherein the assigning digital rights step assigns rights to the one or more assets to independently access the one or more assets under control of the assigned digital rights.
11. The method of claim 5, further comprising the step of placing the SCO, the metadata file and a promotional file into a digital container.
12. The method of claim 11, wherein the placing step includes at least one of assigning digital rights to the SCO and encrypting the one or more assets using randomly generated symmetric keys of the associated SCO.
13. The method of claim 12, wherein the digital rights include at least one of price, user identity, and length of use.
14. The method of claim 12, further including placing the randomly generated symmetric keys in the metadata file, and encrypting the metadata file with a public key.
15. The method of claim 1, wherein in the composing step the one or more assets include at least one of a video asset, a text asset, a music asset, and a learning asset.

16. A method of claim 1, further comprising packaging a content aggregation file separately from the SCO and any asset files, wherein the content aggregation file includes for the SCO: an associated metadata file, a manifest file, a content packaging information, and encrypted rights.

17. A method for creating learning objects, comprising:

creating a package containing one or more shareable content objects (SCOs);

assigning digital rights management (DRM) to the one or more SCOs;

updating an on-line electronic store (e-Store) with the one or more SCOs;

making the one or more SCOs available for searching and downloading at a client,

wherein access to the one or more SCOs is controlled by the DRM, and the one or more SCOs include one or more assets individually controllable; and

logging onto a portal server to perform any of the steps, wherein the portal server provides a common interface personalized to a user's profile and role.

18. The method of claim 17, wherein in the creating a package step the package contains a content aggregation file containing at least one of a metadata, a manifest, content packaging information, and a encrypted rights for each SCO in the package.

19. The method of claim 17, further comprising the step of invoking a DRM packager to upload the package in compressed format and place in a digital container.

20. The method of claim 17, further comprising the step of storing the package in a learning objects repository for later retrieval by an on-line learning management system when the one or



more SCOs is at least one of searched and accessed.

21. The method of claim 17, wherein: the assigning DRM to the one or more SCOs include assigning a price to each of the one or more SCOs and at least one of the one or more assets, and the assigning the DRM step causes limitation of access to the one or more SCOs by user identity, price, or type of asset.

23. The method of claim 17, further comprising: logging onto an electronic store (e-store) to access the one or more SCOs; and generating promotional material and supplying parameters indicating at least one of: a package ID, whether each of the SCOs is encrypted, whether the one or more SCOs are to be delivered via on-line or off-line mode, whether the package is a course or SCO, a license server address, content manager address, and whether the promotional contents are packaged into a secure container.

24. The method of claim 17, further comprising assigning symmetric keys to each one or more SCOs and encrypting each one or more SCOs with the symmetric keys.

25. The method of claim 17, further comprising: extracting information including thumbnail promotional material from a content aggregation(CA) file; ingesting the one or more SCOs and CA file into a catalog using the information; and storing the thumbnail promotional material into the catalog and associating the promotional material with the one or more SCOs, wherein the thumbnail promotional material and one or more SCOs are searchable.

26. The method of claim 17, wherein the one or more assets are at least one of a video asset, a text asset, a music asset, and a learning asset.

27. A system for providing learning objects, comprising:

a portal server to permit authoring of at least one shareable content object (SCO) having one or more assets;

a digital rights management (DRM) content packager accessible via the portal server which assigns digital rights to the at least one shareable content object (SCO);

a DRM license server which assigns license criteria to the at least one SCO and the one or more assets; and

a content manager which stores or retrieves the at least one SCO and the one or more assets.

28. The system of claim 27, wherein the portal server provides a common interface personalized to a user's profile and role, and the portal server facilitates at least one of: accessing a web base authoring application for creating the at least one SCO, and downloading of an client authoring application for creating the at least one SCO.

29. The system of claim 27, wherein the DRM content packager communicates with the portal server for uploading the at least one SCO and communicates with a content manager loader for storing the at least one SCO in a learning objects repository and wherein the DRM content packager uploads a package and parses the package to extract structure and titles of the package, the package containing the at least one SCO and promotional material.

30. The system of claim 27, wherein the one or more assets is at least one of a video asset, a text asset, a music asset, and a learning asset.

31. The system of claim 27, wherein the at least one SCO is packaged into a digital container, and wherein the each of the at least one SCO and each of the one or more assets is associated with a price controlled by DRM.

32. A digital rights protection system, comprising:

a secure uploading service capable of receiving unprotected digital content having one or more parts, associated metadata, and one or more promotional materials;

an automatic validation component adapted to ensure conformance of the unprotected digital content to Shareable Content Object Reference Model (SCORM) standards and providing error messages to enable correction; and

a digital rights generation layer having one or more components adapted to provide a web-based interface for specifying different rights to the one or more parts for providing protected digital content.

33. The digital rights protection system of claim 32, further comprising a means for generating digital rights files and associating the digital rights files with the digital content by embedding links into a metadata right field within corresponding metadata files.

34. The digital rights protection system of claim 33, further comprising a transparent web

service for automatically encrypting the protected digital content and the rights files, wherein the digital rights generation layer provides content protection services.

35. The digital rights protection system of claim 32, further comprising:
- a security manager component adapted to provide secure communications with client stations and an electronic store; and
  - a content repository component which prevents any input/output operation that creates a rights violation when the protected digital content is stored.

36. The digital rights protection system of claim 32, further comprising a means for providing catalog creation services that includes invoking web services with a trusted electronic store to create a catalog entry of the protected digital content and any associated promotional material.

37. The digital rights protection system of claim 32, wherein all components of the rights generation layer has a public-key certificate by a certificate authority indicating that all the components are trusted.

38. The digital rights protection system of claim 32, wherein the digital rights generation layer provides updating and version control capabilities of the protected digital content and any associated metadata files.

39. A computer program product comprising a computer usable medium having readable program code embodied in the medium, the computer program product includes:

a first computer code to compose a shareable content object (SCO) representing one or more assets;

a second computer code to assign a digital rights to the SCO to secure the one or more assets;

a third computer code to individually access the SCO and the one or more assets, wherein the access to the SCO and the one or more assets is individually controlled by the assigned digital rights; and

a fourth computer code to provide a common interface personalized to a user's profile and role to facilitate one of accessing or downloading the first computer code.

**(IX) EVIDENCE APPENDIX**

This section lists evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, or any other evidence entered by the Examiner and relied upon by Appellant in this appeal, and provides for each piece of evidence a brief statement setting forth where in the record that evidence was entered by the Examiner. Copies of each piece of Evidence are provided as required by 37 C.F.R. §41.37(c)(1)(ix).

<b>NO.</b>	<b>EVIDENCE</b>	<b>BRIEF STATEMENT SETTING FORTH WHERE IN THE RECORD THE EVIDENCE WAS ENTERED BY THE EXAMINER</b>
1	N/A	N/A

**(X) RELATED PROCEEDINGS APPENDIX**

Pursuant to 37 C.F.R. § 41.37(c)(1)(x) copies of the following decisions rendered by a court or the Board in any proceeding identified above in the Related Appeals and Interferences section.

NO.	TYPE OF PROCEEDING	REFERENCE NO.	DATE
1	N/A	N/A	N/A